

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Stephan Nicholas Holmes,

Civ. No. 22-2985 (JWB/DJF)

Plaintiff,

v.

**ORDER ACCEPTING REPORT &
RECOMMENDATION**

Bob Fletcher et al.,

Defendants.

This matter is before the Court on the Report and Recommendation (“R&R”) by United States Magistrate Judge Dulce J. Foster dated April 14, 2023. (Doc. No. 18.) Plaintiff has objected to the recommendations that this Court dismiss with prejudice his action against Bob Fletcher and that this Court deny his motion to appoint counsel. (Doc. No. 22.)

The Court reviews the portions of the R&R to which Plaintiff objects *de novo* and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); D. Minn. LR 72.2(b)(3). When a party fails to file specific objections to an R&R, *de novo* review is not required. *See Montgomery v. Compass Airlines, LLC*, 98 F. Supp. 3d 1012, 1017 (D. Minn. 2015) (observing that objections to an R&R that “are not specific but merely repeat arguments presented to and considered by a magistrate judge are not entitled to *de novo* review, but rather are reviewed for clear error”). The Court reviews any aspect of an R&R to which no specific objection is made for clear error. *Grinder v. Gammon*, 73 F.3d 793, 795 (8th

Cir. 1996); *see also* Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”). Similarly, the Court reviews an appeal from a Magistrate Judge on nondispositive pretrial matters under the “extremely deferential” clear-error standard. In *re Pork Antitrust Litig.*, No. CV 18-1776 (JRT/JFD), 2023 WL 23828, at *2 (D. Minn. Jan. 3, 2023); 28 U.S.C. § 636(b)(1)(A); *see also* Fed. R. Civ. P. 72(a); D. Minn. LR 72.2(a)(3). Because Plaintiff is *pro se*, his objections are entitled to liberal construction. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

The Court has reviewed Plaintiff’s objections to the April 14, 2023 R&R which merely restate arguments made before Magistrate Judge Foster. Plaintiff’s objections do not identify any error of law or fact that warrant rejecting the recommendations in the R&R. And, after carefully reviewing all other portions of the R&R not specifically objected to, the Court finds that it is neither clearly erroneous nor contrary to law. Based on that review, and in consideration of the applicable law, the Court accepts the R&R in its entirety.

IT IS HEREBY ORDERED that:

1. Plaintiff Stephan Nicholas Holmes’s Objections to Magistrate’s Report and Recommendations (Doc. No. 22) are **OVERRULED**;
2. The Report and Recommendation (Doc. No. 18) is **ACCEPTED**;
3. All claims against Ramsey County ADC are **DISMISSED WITH PREJUDICE**;

4. Plaintiff's Eighteenth Amendment claims under 42 U.S.C. § 1983 are **DISMISSED WITH PREJUDICE** as to all Defendants;

5. Plaintiff's remaining claims against Defendant Bob Fletcher are **DISMISSED WITHOUT PREJUDICE**; and

6. Plaintiff's Americans with Disabilities Act claims; Rehabilitation Act claims; and official-capacity claims under the Fourth, Eighth, and Fourteenth Amendments under 42 U.S.C. § 1983 against the John Doe Defendants are **DISMISSED WITHOUT PREJUDICE**.

Date: May 24, 2023

s/ Jerry W. Blackwell
JERRY W. BLACKWELL
United States District Judge